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COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 25th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 16 February 1994, at 10 a.m.

Chairman: Mr. van WULFFTEN PALTHE (Netherlands)

later: Mr. URRUTIA (Peru)

CONTENTS

Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-fifth session (continued)

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The meeting was called to order at 10.15 a.m.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-FIFTH SESSION (agenda item 17) (continued) (E/CN.4/1994/2, 70 and 71 and Add.1; E/CN.4/Sub.2/1993/35 and E/CN.4/1993/58 and Add.1)

1. Mrs. MARKIDES (Cyprus) said that the International Year of the World's Indigenous People had already begun to yield concrete results. A Voluntary Fund had been opened, and a number of Governments, interested organizations and individuals had made contributions. The International Labour Organization was promoting the ratification of its Indigenous and Tribal Peoples Convention, and the situation of indigenous people had been on the agenda of the World Conference of Human Rights. The increased awareness in the wake of the International Year had led to the proclamation by the General Assembly of the International Decade of the World's Indigenous Peoples.

2. Heeding the call of the World Conference on Human Rights, the Working Group on Indigenous Populations had completed the drafting of a declaration on the rights of indigenous peoples. Her delegation expressed its appreciation to the Working Group, and particularly to its Chairman-Rapporteur, who had also carried out some excellent work on the protection of the cultural and intellectual property of indigenous peoples, for its efforts on preparing the draft text. Her delegation urged the Sub-Commission to consider the draft declaration at its forty-sixth session and to submit it to the Commission.

3. Mr. DESSER (Austria) said that the Sub-Commission was in the forefront of developments, having completed valuable research on such important questions as the right to compensation for victims of human rights violations, the independence of the judiciary and the protection against discrimination of minorities, indigenous peoples and persons with the HIV infection or AIDS. Its elaboration of the draft declaration on indigenous people coincided with renewed interest in the subject. The report on possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities (E/CN.4/Sub.2/1993/34 and Add.1-4), prepared by Mr. Eide, was also most timely, given the outbreak of ethnic and minority conflicts and the practice of ethnic cleansing that had repeatedly occurred in certain parts of the world. His delegation also welcomed the Sub-Commission's concern at the impunity of perpetrators of human rights violations and its work in the field of human rights and the environment.

4. Another aspect of the Sub-Commission's activities related to the right to a fair trial. Based on studies by Mr. Treat and Mr. Chernichenko and the activities of the Working Group on Arbitrary Detention, the elaboration of a declaration on habeas corpus, including reference to its non-derogable nature, had been envisaged with a view to drafting a third optional protocol to the International Covenant on Civil and Political Rights. His delegation was following those developments with keen interest.

5. There was still room for improvement, however. Attention must be focused on the relationship between human rights and the work of development agencies and humanitarian bodies and on ways and means of ensuring the effective implementation of existing standards. The Vienna Declaration and Programme of Action had underlined the need for a coordinated approach within the United Nations, and the Sub-Commission had an important role to play in that regard. It was important to improve efficiency through a division of labour. In close cooperation with the Commission, the Sub-Commission must continue to review and rationalize its methods of work. The recommendations and conclusions of the studies undertaken in the Sub-Commission must be followed up more carefully, while restraint in the number and subject matter of studies and in the volume of resolutions adopted would enable better use to be made of its resources. Nevertheless, the Sub-Commission's practice of giving expert views on specific human rights violations in the world was still indispensable.

6. His delegation welcomed the decision to study the issue of reforming the procedure under Economic and Social Council resolution 1503 (XLVIII) in order to streamline the Sub-Commission's efforts and avoid duplication of work. The confidential procedure had played a vital role in drawing international attention to situations of gross and systematic violations of human rights in many countries. As an expert body, the Sub-Commission must retain its ability to respond to individual communications and to draw conclusions. It also had an important preparatory function for the Commission and served to prevent and remedy systematic human rights violations. The procedure in question should therefore be strengthened.

7. Experts must remain independent of their Governments and of pressure groups. In the forthcoming elections to the Sub-Commission, special consideration should be given therefore to the curricula vitae of candidates rather than to their nationality, in order to ensure that they had wide experience in the field of human rights. Independence must also be respected during the Sub-Commission's work, one way of achieving that being the use of secret ballots. His delegation also welcomed the provision, on request, of United Nations certificates according Sub-Commission members the status of "experts on mission", with the relevant privileges and immunities, thus giving them further personal security and independence of action in the course of their missions.

8. As confirmed at the World Conference on Human Rights, non-governmental organizations (NGOs) had a central role to play in the United Nations human rights system. Their full participation in the work of the Sub-Commission was thus indispensable.

9. Mrs. PAZ (Mexico) said that her delegation had supported the initiatives to proclaim 1993 the International Year of the World's Indigenous People and to establish a permanent forum for indigenous people within the United Nations system. The International Year had heightened awareness of the value and diversity of the cultures of indigenous peoples and of the many problems facing them.

10. In that context, her delegation wished to make special mention of the efforts of the Working Group on Indigenous Populations, under its Chairman-Rapporteur, and of the Special Rapporteur on the study of treaties, agreements and other constructive arrangements between States and indigenous populations.

11. Her delegation shared the view that it was time for the international community to begin the adoption of concrete measures to fulfil its commitment to promote respect for the human rights and legitimate aspirations of indigenous peoples and to help overcome the adverse factors affecting their well-being and development, such as extreme poverty, marginalization and rejection, while ensuring strict respect for their values and traditions. To that end, dialogue and concerted action were needed.

12. Mexico, which was one of the few States to have ratified ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, had the richest variety of indigenous groups and the largest number of indigenous persons in the Americas. Its Constitution protected and promoted the languages, culture, customs, resources and specific forms of social organization of the indigenous peoples and proclaimed the integrity of their lands.

13. Land courts and an Office of the Agrarian Counsel had been established, while a National Commission of Integral Development and Social Justice for the Indigenous Peoples had recently been created to focus on the needs of the indigenous populations, coordinate activities and define policies to assist their development by improving their social, economic, educational, cultural, health and employment conditions and guaranteeing them the fair administration of justice and respect for their individual and collective rights.

14. Mr. DAUFRESNE de la CHEVALERIE (France) said that the Sub-Commission was an irreplaceable source of inspiration and information. Its initiatives had been at the origin of some of the Commission's most important achievements. It was currently considering such urgent matters as the independence of the judiciary, the question of impunity, the right to rehabilitation for victims of human rights violations and human rights and extreme poverty. Nevertheless, the issue of the Sub-Commission's methods of work had become acute, as the experts themselves were aware. At their forty-fourth session, they had adopted as an annex to resolution 1992/8, a set of guidelines concerning their methods of work. All that remained was for the Sub-Commission to apply those guidelines.

15. The Secretariat was obviously no longer able to cope with the workload resulting from the constantly increasing number of Sub-Commission studies. At its most recent session, the Sub-Commission had had to postpone some of its discussions until the following year so as to enable non-governmental organizations to speak on one or other report. That, too, suggested that rationalization was needed.

16. A number of improvements should also be noted however: the appointment of commentators for each study, even though the principle had still to be generalized, had already given rise to in-depth discussions on certain subjects. The idea that only experts who were currently members of the

Sub-Commission should carry out studies would help strengthen the coherence of the Sub-Commission's work. His delegation welcomed the very useful and up-to-date list of studies completed or in progress annexed to the Sub-Commission's latest annual report (E/CN.4/1994/2, annex V): that was an excellent working tool.

17. Some of the criticism levelled against the Sub-Commission was clearly excessive. It was the Sub-Commission's flexibility and its ability to react to the issues of the day, to take new initiatives and to build upon the work of the Commission that made it such an important body. The independence of the experts was the best guarantee of that vitality. There was no question of restricting the Sub-Commission's mandate by fixing in advance the subjects or situations that it could consider. Although his delegation sometimes disagreed with the experts, it had never questioned their contribution to the Commission's work.

18. In examining the Sub-Commission's report, the Commission should not engage in recriminations, but should consider each of the proposed resolutions and decisions carefully. Some texts might need amendment, particularly those on contemporary forms of slavery and on the recognition of violations of human rights as an international crime.

19. Mrs. SABHARWAL (India) said she agreed with earlier speakers that the Sub-Commission had a unique role to play within the human rights bodies of the United Nations, combining as it did both independence and expertise. If it was to serve effectively as a think-tank for the Commission, however, it must not be overburdened or diverted from its mandate.

20. The report of the Sub-Commission on its forty-fifth session (E/CN.4/1994/2) was a further confirmation of the dynamism of that body and of its responsiveness to existing and emerging threats to human rights. A case in point was resolution 1993/13, adopted by consensus, in which the Sub-Commission condemned all acts, measures and practices of terrorism in all its forms and manifestations as gross violations of human rights. In the discussion, many of the experts had warned of the spectre of terrorism sweeping across the globe.

21. Terrorism which exploited religious differences assumed a particularly malevolent aspect when it was sponsored from abroad both for territorial gains and to undermine the secular policy of democratic Governments. Her Government could speak from experience, since it was witnessing the use of terrorism as a weapon of war. Externally supported terrorists and foreign mercenaries had tortured and killed hundreds of civilians, had brutalized and raped women, had selectively targeted politicians, human rights activists, media persons and academicians and had grossly violated the human rights of thousands of innocent men, women and children. Her delegation thus urged the Sub-Commission to study in depth the phenomenon of terrorism and its impact on human rights.

22. Her delegation commended Mr. Eide on his final report on the protection of minorities (E/CN.4/Sub.2/1993/34 and Add.1-4), a valuable and timely contribution to the understanding of the complex question of minorities at a time when the world was witnessing ethnic and religious conflict of tragic proportions. An essential dimension requiring serious consideration was the aspect of legally and constitutionally mandated and entrenched discrimination, of apartheid proportions, practised by some Governments against their own ethnic and religious minorities.

23. Mr. MENDOZA (Observer for El Salvador) said that he wished to draw particular attention to Sub-Commission resolution 1993/22 on the question of the human rights of disabled persons. The resolution had been based in part on the report of the Special Rapporteur on that question (United Nations publication, Sales No. E.92.XIV.4), which had been distributed during the preparatory phase of the World Conference on Human Rights and had contributed greatly to the Conference's consideration of that issue. His Government particularly appreciated the humanistic approach of the report, which affirmed that special attention must be paid to the human rights of the disabled, and the fact that the report's title had avoided the use of terms with pejorative connotations.

24. Resolution 1993/22 recalled the Vienna Declaration and Programme of Action, which reaffirmed that persons with disabilities should be guaranteed equal opportunity through the elimination of all barriers which excluded or restricted full participation in society. It requested the Commission on Human Rights to take into consideration the recommendations contained in the Special Rapporteur's report and, particularly, to work towards the appointment of an international ombudsman for the human rights of disabled persons. The last recommendation was particularly apposite following the termination of the United Nations Decade of Disabled Persons and he hoped that the Commission would adopt a resolution to that effect.

25. Mr. KOVAL (Observer for Ukraine) said that, in response to the numerous issues with which it had to deal, the Sub-Commission had extended its original mandate and, consequently, the tasks entrusted to its various experts. The Sub-Commission's increased contribution to the work of the Commission would require increased coordination between the two bodies, which should be based on their respective jurisdictions. To that end, the number of issues analysed simultaneously by the two bodies should be reduced. In that connection, he welcomed the Sub-Commission's decision, by its resolution 1993/4, to convene, during its forty-sixth session, a working group to continue the study of its methods of work.

26. He wished to reaffirm his Government's support for draft decision No. 10 on the protection of minorities under which, if the Commission so agreed, the Sub-Commission would consider at its next session the feasibility and usefulness of preparing a more comprehensive programme for the prevention of discrimination and protection of minorities.

27. He wished to draw particular attention to Sub-Commission resolution 1993/42 on the rights of persons belonging to national or ethnic, religious and linguistic minorities, which had been adopted without a vote. That resolution touched upon a problem which was, unfortunately, highly topical, namely, respect for human rights in areas of armed conflict.

28. In it, the Sub-Commission appealed to all States to adopt the necessary measures to give effect to the principles of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and to conclude bilateral or multilateral agreements to that end and also to observe them for the protection of the right of minorities, in accordance with the standards of international humanitarian law, in cases of armed conflict which directly affected their interests. The resolution further requested the Secretary-General to make available the resources needed to provide monitoring, advisory assistance and financing to States in connection with their activities related to the protection of the rights of minorities.

29. Mr. PAK Dok Hun (Observer for the Democratic People's Republic of Korea) said that he wished to express his appreciation to the Sub-Commission for focusing attention on gross violations of human rights. In that connection, he welcomed its resolution 1993/29, in which it invited the Commission to pay particular attention to the conclusions and recommendations contained in the study prepared by the Special Rapporteur on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms (E/CN.4/Sub.2/1993/8, para. 136).

30. Gross violations of human rights continued to be committed with impunity because there was no likelihood of a full investigation and disclosure of past crimes. As the Special Rapporteur had pointed out in his report, successor Governments remained bound by the responsibility incurred by their predecessors for wrongful acts committed by them and for which they had not made reparation, as they were obliged to do in accordance with the principles of State responsibility. No statutory limitations should apply to crimes against humanity. Only when past crimes had been fully eliminated, both legally and morally, could one speak of the rule of law and a peaceful world.

31. He also welcomed resolution 1993/24, in which the Sub-Commission had decided to entrust a Special Rapporteur with the task of undertaking an in-depth study on the situation of systematic rape, sexual slavery and slavery-like practices during wartime. Such a study would not only restore honour and dignity to the victims but would bring hope to all women and help to ensure a more peaceful world. In her preparatory document (E/CN.4/Sub.2/1993/44), the Special Rapporteur had noted that the international community had only recently begun to understand the long-term emotional and physical consequences of such acts.

32. Recent information concerning women who had been forced into sexual slavery during the Second World War confirmed that systematic rape could have a devastating impact on its victims, which could last much longer than the immediate horror of the act itself.

33. The inhuman crimes committed by Japan in the past had left millions of Asian and European victims, whose wounds were still unhealed. His delegation had repeatedly called upon Japan to carry out an investigation of the situation of those who had been known as "comfort women" for the Imperial Army, and of forcibly-displaced persons, to bring those responsible to justice and to make reparations.

34. If the international community was unable to restore the impaired honour and dignity of the small number of survivors of that crime, it was hardly capable of promoting and protecting the human rights of women throughout the world.

35. Ms. EL ETR (Observer for Egypt) said that she particularly appreciated the efforts of the Sub-Commission to define rules for the protection of human rights. The Sub-Commission must move beyond its academic studies and take current realities into account in order to give full effect to the Vienna Declaration and Programme of Action. In that connection, her delegation endorsed Sub-Commission resolution 1993/4 whereby it had decided to convene, during its forty-sixth session, a sessional working group to continue the study of its methods of work. She also paid tribute to the outgoing Chairman of the Sub-Commission for his successful efforts to rationalize that body's work.

36. The recommendations and conclusions of the World Conference on Human Rights should be taken into consideration also, particularly that concerning the need to coordinate the activities of all the United Nations bodies concerned with human rights to avoid duplication of effort.

37. Her Government supported the establishment by the Commission of a working group on contemporary forms of slavery (draft resolution I) and, in that connection, considered that the mandate of the Special Rapporteur should be extended to permit him to complete his work.

38. Mr. AHMAD (World Muslim Congress) said that he wished to draw particular attention to Sub-Commission resolution 1993/17 on the situation in Bosnia and Herzegovina which, inter alia, expressed horror at the practice of ethnic cleansing, deep disturbance regarding constitutional arrangements that would constitute a de facto partition on ethnic and religious grounds, and insistence that all displaced persons should be enabled to return in peace to their homes.

39. Ethnically speaking, Muslims, Serbs and Croats all belonged to the same southern Slav stock and spoke the same language. They were divided only by their religions. Any partition of Bosnia and Herzegovina would in fact be a division based on religious affiliation which, while it might make sense to the Serbs or Croats, was not in the interests of the majority Muslim population, which had always sought to maintain peaceful relations with both Serbs and Croats. The Muslims found themselves caught up in a long-standing religious struggle between the Orthodox Serbs and the Catholic Croats.

40. The history of Bosnia did not give rise to a natural division based on ethnic or religious lines. The territorial division of Bosnia was not possible without resorting to large-scale evictions and extermination of "unwanted" populations by acts which fell within the category of crimes against humanity.

41. He thus did not favour a solution based on the enforced partition of Bosnia and Herzegovina. Such a peace plan, which would require large-scale population transfer, had virtually no chance of working; broken into isolated fragments, the land-locked statelet would not be viable.

42. The current situation on the ground had been created artificially as a result of external aggression and crimes against humanity. It was unfair to appeal to the Bosnian Muslims to support a partition of their country which violated resolutions of the Security Council and the General Assembly affirming its territorial integrity. Such a partition violated the basic principles of justice in that it implied acceptance of genocide as a means of acquiring territory.

43. Moreover, it was likely to create a perpetual situation of conflict: the survival and security of the economically handicapped Muslim Bosnia would depend on the goodwill of the other two States created by the partition. Such goodwill would hardly be forthcoming, and the Muslim Bosnian State would then be in serious jeopardy.

44. A plan under which neutral United Nations troops would ensure the peace and territorial integrity of the three republics was clearly not viable. Governments would be reluctant to commit resources to enforce solutions, unless their own interests were involved. Moreover, it was often very difficult to arrive at a consensus for international action. If Serb and Croat forces were currently able to make incursions into Bosnia, it was reasonable to assume they would be able to do the same in the future, with equal impunity. The only possible solution was one that did not depend on external forces for its implementation.

45. The only viable solution was for Bosnia and Herzegovina to remain a unitary State. As a first step, the arms embargo, which only hampered Bosnian efforts at self-defence, should be lifted. It had been argued that the embargo did not, in fact, have any legal basis. The forces of the Government of Bosnia must be strengthened so they could defend the territorial integrity of their country.

46. The Sub-Commission had also adopted resolution 1993/9 on the situation in Kosovo, which was deteriorating rapidly and deserved urgent attention. In that resolution, the Sub-Commission condemned the measures and practices of discrimination and the violations of the human rights of the ethnic Albanians of Kosovo committed by the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro). It also called for an immediate halt to the practices of summary executions, arbitrary detentions and the use of torture and other cruel, inhuman and degrading treatment.

47. Ms. SPALDING (International Association of Educators for World Peace) said that, in his statement of 20 August 1993 to the Sub-Commission regarding the peace process in El Salvador, the Chairman had emphasized the importance of the Peace Agreements reached on 16 January 1992 between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional and had stressed the need for full compliance with all the pending peace agreements. The United Nations Press Release on the topic (HR/3496) had failed to mention the very important matter of compliance. As the elections in El Salvador were only a month away, she expressed her appreciation of the corrigendum subsequently issued by the Information Service of the United Nations and appealed to the media to exercise particular diligence with regard to such sensitive topics.

48. Her organization had long been aware of the relationship between human rights and the environment, particularly the link between degradation of the natural environment and disabilities of various kinds. In that connection, it again suggested that a system of co-rapporteurs might be of interest in relation to items studied by both the Commission on Human Rights and the new Commission for Sustainable Development. Such teamwork would reduce the Secretariat services required and would help to bridge the work of the two commissions. Pending such an arrangement, she supported draft decision No. 5, which asked the Secretary-General to provide the Special Rapporteur on human rights and the environment with all the assistance she might require for the preparation of her study.

49. In 1992, the Commission on Human Rights had unanimously adopted a resolution in which it had accepted the report of the Special Rapporteur on human rights and disabled persons and his recommendations for mechanisms of implementation, including the appointment of an international ombudsman. However, action had yet to be taken on any of those recommendations. She urged the Commission to honour its commitment.

50. Disability was a problem related to many other issues on the Commission's agenda, including racism, traditional practices affecting the health of women and children, rehabilitation of victims of gross violations of human rights, and contemporary forms of slavery. For the sake of streamlining the Sub-Commission's work her organization had suggested that disability should no longer be a separate item on its agenda but should be a sub-item of item 16 entitled Promotion, protection and restoration of human rights at national, regional and international levels. It might also be useful to place disability under the corresponding item of the Commission's agenda.

51. Her organization was one of the signatories of the 1994 NGO draft resolution on the international trafficking of children's organs. It thus appreciated the inclusion in Sub-Commission resolution 1993/5 of a section on removal of organs from children and endorsed its call for an investigation into allegations related to that issue. It pledged its support to the Sub-Commission's Special Rapporteur appointed to update the debt bondage study and noted that the Trust Fund on Contemporary Forms of Slavery currently had a balance of about US$ 12,000.

52. The concept of ambassadors of the arts for human rights, as contained in draft resolution E/CN.4/Sub.2/1993/L.42 that had been submitted to the Sub-Commission but not acted upon, was an innovative way of producing a regular source of funding for the various United Nations Voluntary Funds and using the language of the arts to promote human rights education.

53. Mr. CONDORI (Indian Council of South America) said that the indigenous peoples were concerned at the serious events taking place in Chiapas, Mexico, where their brothers were suffering serious repression at the hands of the armed forces of the Government. The insurrection was a desperate attempt to draw the world's attention to the serious situation of the indigenous peoples in that region. His organization called on the Government of Mexico to resolve the problem by negotiations, respecting the aspirations of those people for development and the enjoyment of all human rights, and to create the conditions for peaceful coexistence.

54. Despite the efforts of the United Nations, ILO and other international organizations and the development assistance from Governments and the non-governmental organizations of rich countries, the indigenous peoples of the Americas and elsewhere in the world were living in a state of marginalization. There was a danger everywhere that those frustrated peoples might rise up and claim their rights as established in the international instruments of the United Nations, the covenants and conventions ratified by the majority of States.

55. In his own country, Bolivia, the Government had long since ratified the International Covenants on Human Rights but the social and economic situation of the indigenous communities remained unchanged. Persons living far from the major urban centres lacked medical assistance, social security, plumbing and roads.

56. Indians who reached the city were subjected to discrimination and exploitation by the dominant classes. Indian organizations and movements which tried to claim their rights and play an active part in political life were frustrated in their efforts by a lack of money, education, administrative skills and knowledge of the working of State institutions. They considered that, for their development, they needed first of all better training that would enable them to formulate their demands correctly, elaborate their projects, manage their affairs and claim their legal rights effectively.

57. The Bolivian Government had passed an Act for the benefit of the indigenous peoples of Oriente, Chaco and Amazonia. The Act did not include the Andean peoples, but ILO Convention No. 169, ratified by Bolivia in 1991, stated that the groups to which it applied were determined by their awareness of their indigenous identity. That was precisely the case of the Aymara and Quechua communities. Consequently, Bolivia should respect those provisions of the Convention and apply them to its entire indigenous population.

58. Lastly, his organization thanked the General Assembly for having proclaimed the International Decade of the World's Indigenous People.

59. Mr. MEZHOUD (Anti-Slavery International) said that, in the more than 150 years of its existence, his organization had experienced only two periods when there had been effective international anti-slavery mechanisms: the International Slavery Bureau (1890-1914) and the League of Nations Standing Advisory Committee of Experts on Slavery (1933-1939). The Sub-Commission's Working Group on Contemporary Forms of Slavery had been struggling for 20 years within a limited mandate consisting only of receiving information and never seeking it.

60. The familiar image of a slave in shackles no longer adequately described slavery's many newer manifestations, but slavery was immutable in its effect on the human spirit and the human mind. Many millions of people were currently living in a state of servitude throughout the world. There were children forced to work to the detriment of their development; there were bonded labourers and bonded families; and there were girls and women forced into prostitution or sold, trafficked or bartered into marriage.

61. Despite the development, in the second half of the twentieth century, of a comprehensive body of human rights standards, monitoring bodies and human rights organizations, slavery and servitude survived because poverty and discrimination continued to exist. Those practices were so widespread that, in some places, they were simply taken for granted, as being deeply rooted in tradition and the social structure.

62. The challenge was to recognize that many millions of people throughout the world were denied the possibility of legal recourse and, in some cases, systematically denied the rights which other citizens took for granted, and then to do something about it.

63. The international community had gradually become aware, through the Working Group, of the extent of the work still to be done, particularly in respect of trafficking, child labour and bonded labour. There were currently two programmes of action and two special rapporteurs in the United Nations working on child exploitation issues.

64. While recognizing the need to elaborate measures for improved action and cooperation at the international level on issues related to the sale of children, child prostitution and child pornography, as well as the basic measures required for preventing and eradicating those serious problems, his organization considered that a working group, with a strengthened mandate, would be able to carry out that task. The existing Working Group had already drawn up programmes of action which would, if implemented, yield results over the short and the long term. If the political will to act was not forthcoming, a new convention would be of no help. However, a new working group with a stronger mandate would make those efforts more effective and provide a strong focal point for information and action so that substantial progress on some of the worst aspects of contemporary slavery would be possible.

65. Mrs. SACKSTEIN (International Abolitionist Federation) said that, for more than a century, her organization had been campaigning against one of the most blatant forms of contemporary slavery: the traffic and sexual exploitation of human beings for commercial purposes. In some areas, those

efforts had met with a measure of success. Many Federation affiliates had managed to make public opinion aware of the causes and consequences of that affront to human dignity and some Asian and European countries had adopted legislation to deal more effectively with sex-trade networks.

66. However, much remained to be done and her organization was grateful to the Sub-Commission's Working Group on Contemporary Forms of Slavery for making the international community aware of the situation so that positive action could be taken. Thus, the United Nations had elaborated a programme of action to deal with the sale of children and pornography and had appointed a Special Rapporteur to monitor it and, over the past three years, the Commission had been encouraging the Sub-Commission and its Working Group to recommend ways and means of establishing effective mechanisms for the implementation of the conventions on slavery.

67. As for draft resolution I, which would create a working group of independent and experienced experts mandated to seek and receive information from Governments, intergovernmental and non-governmental organizations and individuals, her organization considered that such a working group would provide an important focal point for information and action. It thus strongly supported the draft resolution and believed that, if there was international support for the idea, the proposed working group would be an effective instrument in the fight against contemporary forms of slavery.

68. Mr. ECKSTEIN (International Organization of Indigenous Resource Development) said that indigenous peoples had a clear objective: they insisted that their human rights be fully respected. They were not seeking a special category of rights, but wanted their rights as peoples to be recognized.

69. There had been much discussion about recognition of the collective rights of the world's indigenous peoples. The argument most often heard against such recognition was that, if those rights were recognized, they would be used by the peoples concerned to secede from existing States and become independent. That was an absurd and prejudicial argument since indigenous peoples were "peoples" in every historic, scientific and legal sense. They had their own territories, histories, languages and cultures.

70. The United Nations had already recognized that peoples and nations had collective human rights but certain States apparently did not acknowledge that those collective rights pertained to indigenous peoples. In other words, for their own purposes and reasons, they were objecting to the universal application of human rights proclaimed by the United Nations. They wanted to divide human rights into categories: self-determination would mean one thing for one group but would be limited in its application when indigenous peoples claimed the same ostensibly universal right. It was to avoid that kind of prejudicial application of human rights standards that such great emphasis had been placed on the concepts of universality and indivisibility.

71. It had been recognized as part of the retrospective activity of the International Year of the World's Indigenous Peoples that indigenous issues should be better integrated into the United Nations programmes and services. The recommendation by the Vienna Conference on Human Rights that a permanent

forum should be established in the United Nations to address indigenous issues had merit and deserved serious consideration. As things stood, the indigenous peoples had only limited access to the human rights machinery of the United Nations system.

72. One of the main concerns of indigenous peoples was that they had been excluded from all the economic benefits and wealth of their own lands and territories. The result of that dispossession was poverty and disease. In addressing such issues, therefore, the United Nations should not limit the scope of its response exclusively to the human rights concerns of indigenous peoples. The Commission had recognized the inextricable association of human rights, economic questions and development issues and should ensure that the indigenous peoples had full access to the health and development resources of the Organization.

73. Mr. Urrutia (Peru) took the Chair.

74. Ms. SAJOR (Third World Movement against the Exploitation of Women) said that many NGOs had referred to the case of the some 200,000 Asian "comfort women". It was clear that individual victims of military sexual slavery during the Second World War were entitled to reparations in the light of the report of the Special Rapporteur on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms (E/CN.4/Sub.2/1993/8). Her organization thus regretted the fact that Japanese national institutions did not provide an effective remedy for those victims.

75. In December 1991, Korean victims of sexual slavery had gone to the Tokyo District Court to sue the Government of Japan and the Filipino victims had done the same in April 1993. Unfortunately, those litigations would not solve the problem since Japanese legal procedures might require as much as 20 years to exhaust all remedies. According to a senior conservative politician, 142,000 comfort women had died during the Second World War, many of them having been killed or abandoned by the Japanese Imperial Forces. Even those who managed to return home were unable to confess their plight to their relatives out of shame.

76. The total number of the surviving victims and their relatives, who could be identified, was extremely small. Japan would therefore profit since it would not have to pay compensation to most of the victims or their families.

77. The main issues in the litigations were violations of international law, including war crimes, crimes against humanity and enforced slavery. Her organization knew of no instance of a plaintiff winning a case in a Japanese court by invoking international human rights law. Japanese domestic court procedures were thus not effective remedies for the victims.

78. Many NGOs had rejected the second report published by the Japanese Government on Asian "comfort women". It had been recommended that a special committee should be established in the Diet to carry out an official investigation into all of the cases and resolve the issues on the basis of the facts. However, there was no consensus among the members of the Japanese Diet regarding the post-war disposition issue concerning "comfort women". The new

ruling eight-party coalition might be divided in its policy. Many parties, including the largest opposition party, might not accept any legal responsibility regarding punishment of the persons responsible and reparations for the individual victims.

79. It was for those reasons that the United Nations system must address that international problem to ensure punishment of those responsible and expeditious reparations for victims. Provision should also be made to address the extraordinary problem of deceased victims who could not be identified.

80. Although the United Nations had established a criminal tribunal for cases of organized rape in the former Yugoslavia, it had failed to establish one for the Asian victims of military sexual slavery. She thus called on the Commission to take immediate action to secure the establishment of such a tribunal. The Japanese Government should be persuaded to submit the following request to the Secretary-General: "Japan wishes the Secretary-General, using his good offices, to set up an international arbitration tribunal to consider applications against Japan from alleged individual victims". Such applicants could be the victim or her next of kin.

81. As for the unidentifiable deceased victims of sexual slavery, her organization thought that Japan should be invited to donate at least four trillion yen (US$ 36 billion), or about US$ 180,000 for each deceased victim, to the United Nations to set up a special fund to be used in proportion to the damage caused in countries victimized by Japan's sexual slavery crimes for the welfare of all the women there.

82. Mr. LITTMAN (International Fellowship of Reconciliation) said, with reference to the ever-widening gap between the activities of the Sub-Commission and what was happening in the outside world that he wished to draw attention to Sub-Commission resolution 1993/14 on the situation of human rights in the Islamic Republic of Iran, reflecting Commission resolution 1993/62, and draft decision 4, proposing the appointment of a Special Rapporteur to prepare a report on the recognition of gross and large-scale violations of human rights as an international crime.

83. On a dozen or more occasions over the past five years, his organization had highlighted the failure of both the Sub-Commission and the Commission to adopt a specific resolution - or even a paragraph - to condemn the fatwa that had targeted Salman Rushdie and the subsequent incitements to murder that had regularly been made. That grave omission had occurred despite a request by one of the Sub-Commission's experts, Mrs. Claire Palley on 21 August 1992 that the Sub-Commission should make it clear that such fatwas and the death penalty for heresy were themselves gross violations of human rights.

84. The Government of Iran had justified its position by referring to a declaration by the Eighteenth Islamic Conference of Foreign Ministers, which had proclaimed the apostasy of Salman Rushdie in unambiguous terms. The international community was thus entitled to clarification concerning the meaning of that proclamation from the Secretary-General of the Islamic Conference, who was scheduled to address the Commission the following day.

85. That was even more necessary in the light of the statement by the representative of Iran to the Sub-Commission on 17 August 1993 that the Salman Rushdie case related not to the Government of Iran but to the whole Muslim world.

86. In fact, Mrs. Palley's remarks at the Sub-Commission's forty-fourth session had focused rather on the current Prime Minister of Pakistan, Mrs. Benazir Bhutto who, at the time, was strongly opposing a legislative amendment sought by Pakistan's Shariah Court that would have made it a crime, punishable by death, to insult the Prophet Mohammed. He once again requested, in that connection, the representative of Pakistan to reply to his pertinent query of 8 February 1994. There were seven pending cases in Pakistan of Christians who had been accused of blasphemy under the penal code, one of them being a boy of 11. His organization sought an assurance that no death sentences would be pronounced or carried out by the Government of Pakistan and that no law would be introduced to permit such executions.

87. A turning point in the Rushdie affair had been its explicit mention by the Committee on Economic, Social and Cultural Rights when reviewing Iran's initial report in May 1993. That had been followed, in August 1993, by the observations of the Human Rights Committee regarding Iran's second periodic report. The comments by the two Committees had followed an interview published in Time International, on 24 May 1993, in which the President of the Islamic Republic of Iran had declared that the fatwa against Salman Rushdie had been prescribed by Islamic law that had been in existence for 1,000 years, long before the pronouncement of the Imam.

88. The Rushdie syndrome was a direct attack on the rights of freedom of opinion and expression. A fundamentalist wave of assassinations was currently flooding a number of Islamic countries, in which Muslim intellectuals, writers and journalists were all considered legitimate targets. Tragic integrist events had also occurred in Egypt, Algeria and Turkey.

89. In November 1993, a courageous group of 100 Muslim writers and artists had signed or contributed essays to a book entitled Pour Rushdie. They, together with nearly 200 Iranian intellectuals and artists in exile who had openly condemned the 1989 fatwa, had been branded heretics and become targets also. He wondered whether Mr. Rushdie would be able to appear before the Commission in safety to make an appeal under article 19 of the International Covenant on Civil and Political Rights, or whether he would suffer the fate of Mr. Kazem Rajavi, whose murder, in which Iranian Government services were implicated, had twice been condemned by the Sub-Commission.

90. His organization had been astonished by the French Government's decision to release two Iranian citizens suspected by Lausanne judge of having participated in the political assassination of Mr. Rajavi. The decision contradicted a French ministerial decree ordering extradition of the suspect to Switzerland. It had coincided, somewhat unfortunately, with President Mitterrand's New Year's message referring to France's exemplary record in the field of human rights. He appealed to the Iranian delegation to

bring the two suspects to Switzerland for questioning by a Swiss judge and/or by the Commission's Special Representative. That would provide an opportunity for Iran to refute allegations that it was involved in a deliberate policy of international terrorism.

91. Ms. ARBACH (Women's International League for Peace and Freedom) said that her organization welcomed the second progress report prepared by Mrs. Ksentini, the Special Rapporteur on human rights and the environment (E/CN.4/Sub.2/1993/7). As an organization committed to peace, it wished to draw the Commission's attention to the impact of military activities on the environment. In her preliminary conclusions, the Special Rapporteur stated that environmental damage had direct effects on the enjoyment of a series of human rights, inter alia, the rights to life, to health, to a satisfactory standard of living, to sufficient food, to housing, to education, to work, to culture, to development and to peace. She also stressed the vulnerability of certain peoples and groups to ecological risks and man-made or war-related natural disasters. The Commission should take action on the recommendations of the Special Rapporteur and urge the various human rights bodies to consider the environmental dimension of human rights in their respective mandates.

92. Even before the United Nations Conference on Environment and Development (UNCED), her organization had been closely monitoring the effects of military activities, war and conflict. Referring to article 3 of the Universal Declaration of Human Rights on the right to life, liberty and security of person, she stressed the interdependence of human rights, the earth and the common ecological destiny of mankind; nowhere in the world were people completely safe from natural disasters or man-made environmental damage.

93. Environmental abuses were aggravated by war and by the fact that the public was largely unaware of government activities. Destruction of the environment was a method of war, a form of "ecological terrorism", as dramatically illustrated by the burning oil-wells in Kuwait during the Gulf conflict. In many parts of the world, human beings were being mutilated or dying as a result of land-mine explosions. Four million Cambodians had died or been mutilated in land-mine explosions. Every year, 10,000 civilians suffered the same fate.

94. Such acts not only destroyed the environment but also prevented the economic recovery and development of war-torn countries. In Viet Nam, the use of modern weapons to destroy the environment had triggered a prolonged economic crisis. Chemical warfare had transformed land into deserts which could not be cultivated or inhabited.

95. Even in time of peace, $880 billion were channelled into the military industry every year and the production process itself diverted resources from programmes for health, education and environmental preservation. Arms production, weapons testing, military exercises and the establishment of military bases and installations caused accidents, many of them quite localized, such as the destruction of topsoil by heavy tracked vehicles or the disruption of animal life by the sound of aircraft and gunfire. Intense noise during aerial manoeuvres caused deafness, high blood pressure, heart attacks and psychological disturbances in human beings and upset animals' natural habitats.

96. Her organization supported the Special Rapporteur's recommendation that there should be regular consideration of the interdependence of militarism and the environment and, in particular, the recommendation that a meeting of experts be convened to formulate recommendations on how the right to the environment could be incorporated into the activities of human rights bodies. That meeting should be open to non-governmental organizations (NGOs). The right to a clean environment must be recognized as a basic human right and included in reports on the implementation of the various international conventions.

97. Ms. SHIN (Commission of the Churches on International Affairs of the World Council of Churches) said that her organization had raised the case of some 200,000 Asian women forced into sexual slavery by the Japanese Imperial Army before the Working Group on Contemporary Forms of Slavery, the Sub-Commission and the Commission. It welcomed Sub-Commission resolution 1993/24 appointing a Special Rapporteur, to carry out an in-depth study on systematic rape, sexual slavery and slavery-like practices during wartime (para. 1). The Committee on the Elimination of Discrimination against Women (CEDAW) had also raised the issue of slavery during wartime, when reviewing Japan's national report in January 1994.

98. Under the watchful eye of the Commission and the international human rights community, Japan had finally admitted that its army had forcibly drafted women into sexual slavery and that the victims had been subjected to intolerable agony and pain during their captivity, and the Prime Minister of Japan had apologized to the President of the Republic of Korea for the Japanese system of sexual slavery during the Second World War. Since then, however, demands for justice and for reparations to the victims had been ignored. At best, the Japanese Government had implied that it was considering some sort of fund in lieu of compensation.

99. Meanwhile, the surviving victims, most of whom were in their seventies, were growing desperate. In 1993 alone, three victims in the Republic of Korea had died, one of them from syphilis dating back to her years of sexual slavery. Another woman, who had been scheduled to testify before the Commission had been too ill to attend. On 7 February 1994, 11 persons from the Republic of Korea had visited the Japanese prosecutor's office in Tokyo in order to file a formal complaint signed by 27 surviving victims, but their complaint had been rejected.

100. Violence against women had become a world-wide concern, particularly after the occurrence of organized mass rape in the former Yugoslavia. The Vienna Declaration and Programme of Action called for an effective response to violations of women's human rights during armed conflict. Her organization welcomed the establishment of an international tribunal for the prosecution of violations of international humanitarian law in the territory of the former Yugoslavia.

101. In that connection, it wished to draw the Commission's attention to the fact that the Batavia Military Court had punished Japanese military officers and the private entrepreneurs involved in the sexual slavery of 38 Dutch women by the Japanese Army, although there had been no trial whatsoever of those who had committed war crimes against Asian women. The inaction by the Japanese

Government was in sharp contrast to the German Government's continued prosecution of Nazi criminals and the 1988 decision by the United States Government to compensate American citizens of Japanese descent who had been interned during the Second World War.

102. Her organization requested the Commission to endorse Sub-Commission resolution 1993/24 appointing Ms. Chávez as Special Rapporteur and to urge Japan to punish those responsible for the crimes and to pay reparations to the victims. It was unacceptable that Japan should seek membership of the Security Council when it was not prepared to make amends for its past.

Statements in exercise of the right of reply

103. Mr. ANGOL (Sudan), said that the statement by the International Association for the Defence of Religious Liberty, delivered the previous day, had targeted Muslim countries with the aim of demonstrating that Islam was an intolerant religion, that it persecuted Christian minorities and that it prescribed harsh punishment for those who chose to convert to Christianity.

104. Throughout history, however, Islam had been tolerant of other religions. He reminded the Commission that the Inquisition had not been as Islamic institution. There were sizeable Christian and other minorities in Muslim countries who enjoyed the same rights as their fellow citizens. In the Arab world, 15 to 20 million persons, out of a population of 160 million, were Christians.

105. The same could not be said of Europe, where the small remaining Muslim communities were being subjected to ethnic cleansing, genocide, rape and other atrocities. He cited the case of Bosnia and of Kosovo, where Muslim freedom was being stifled by the Serb authorities. The International Association for the Defence of Religious Liberty had not mentioned any of those abuses, however. His delegation therefore wondered whether the Association truly lived up to its name and whether it deserved its consultative status with the Commission. As for the Association's fictitious accusations against the Sudan, he would not dignify them with a response.

106. Mr. BEBARS (Egypt) said that his delegation wished to refute the untrue allegations made by the International Association for the Defence of Religious Liberty. The Association had no inkling of the degree to which religious tolerance prevailed in Egypt. Religion had played a major role throughout Egyptian history and the country had long been a refuge for the persecuted. The Egyptian people were known for their tolerance and people of many different faiths lived side by side in the country.

107. Since 1923, the various Egyptian constitutions, and, particularly the 1979 Constitution, had affirmed equality among the various religions the principle of non-discrimination. Article 46 guaranteed freedom of religion and religious practice and article 57 made religiously motivated attacks a crime. Article 67 prescribed the penalties to be applied in such cases.

108. Change of religion was not considered a crime in Egypt. It was possible, of course, that the exploitation of religion for illegal or disruptive purposes, or certain acts whose repercussions went beyond the individual, would have to be referred to the courts for a decision.

109. The State guaranteed the protection of places of worship; attacks on them, especially terrorist attacks, were punished. As a result of the restoration which had been in progress since 1981, there were currently 350 churches in Egypt. Resources were also needed, of course, to restore Egyptian ruins which had deteriorated or been damaged in the 1992 earthquake. Certain economic priorities had to be dealt with as well and resources were limited. His Government had recently launched an appeal for financial assistance to restore all its religious ruins.

110. His delegation was always willing to cooperate with NGOs but expected them to show sensitivity and objectivity and not indulge in baseless allegations.

The meeting rose at 12.50 p.m.